

REMARKS

The Office Action of January 5, 2007, has been received and reviewed.

Claims 5, 6, and 9-30 were previously pending in the above-referenced application. Claims 29 and 30 have been withdrawn from consideration. Claims 5, 6, and 9-28 have been considered.

Of the claims that have been considered, claims 6, 11, 17-19, and 22-28 have been allowed, while claims 10 and 12-16 recite allowable subject matter. Claims 5, 9, 20, and 21 stand rejected.

Claims 29 and 30 have been canceled without prejudice or disclaimer.

Reconsideration of the above-referenced application is respectfully requested.

Rejections under 35 U.S.C. § 112, Second Paragraph

Claims 9, 20, and 21 have been rejected under the second paragraph of 35 U.S.C. § 112 for reciting subject matter that is purportedly indefinite.

Claim 9 has been rejected for reciting a resonant optical cavity with a cylindrical shape and a substantially planar surface. It is respectfully submitted that one of ordinary skill in the art would readily recognize that a cylinder has two planar ends. Thus, it would also be clear to one of ordinary skill in the art that a resonant optical cavity with a cylindrical shape would have a substantially planar surface. In any event, claim 9 has been amended to indicate that the substantially planar surface is at an end of the cylinder. As claim 9 is believed to be definite without revision, the revision to claim 9 does not narrow or limit the scope of claim 9 or any other claim of the above-referenced application.

In addition, claim 9 has been rejected because it is purportedly “not clear... how the additional array of optical cavities are related to the cylindrical optical cavity of the biosensor.” Office Action of January 5, 2007, page 2. Claim 9 has been amended to recite a biosensor that includes an array of resonant optical cavities, at least one resonant optical cavity of which is cylindrical in shape. It is respectfully submitted that this revision to claim 9 clearly establishes the relationship between a resonant optical cavity having features recited in claim 9 and the array of resonant optical cavities.

In rejecting claim 20, the Office has asserted that it is unclear whether “a fluorescently labeled analyte is also applied to the surface of the resonant optical cavity.” Office Action of January 5, 2007, page 2. While the plain language of claim 20 recites “applying... at least one of a fluorescently labeled analyte and a luoesaencely labeled molecule that competes with the at least one analyte...” to the surface, claim 20 has been revised to provide further clarity. The revision to claim 20 does not narrow its scope, or the scope of any other claim pending in the above-referenced application.

It is respectfully submitted that claim 9 and claim 20 both comply with the definiteness requirement of 35 U.S.C. § 112, second paragraph. Accordingly, withdrawal of the 35 U.S.C. § 112, second paragraph, rejections of these claims is respectfully solicited, as is their allowance.

Rejections under 35 U.S.C. § 102(b)

Claim 5 stands rejected for being drawn to subject matter that is allegedly anticipated by the subject matter described in U.S. Patent 5,742,633 to Stone (hereinafter “Stone”).

A claim is anticipated only if each and every element, as set forth in the claim, is found, either expressly or inherently described, in a single reference which qualifies as prior art under 35 U.S.C. § 102. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Stone describes a “prior art” cylindrical resonator at col. 1, line 32, to col. 2, line 15, in conjunction with FIGs. 1-2C of the drawings, but lacks any express or inherent description that such a cylindrical resonator may have a quality factor of at least about 10^4 .

Stone also describes a resonator that, when deformed “at roughly 10%,” has a quality factor, or “Q value” “in the range of 10^4 .” Col. 4, lines 1-31. That resonator has asymmetric cross-sectional and end surface shapes.

It is, therefore, respectfully submitted that Stone does not expressly or inherently describe, in identical detail to that recited in amended independent claim 5, a biosensor that comprises “a resonant optical cavity with a circular cross section[,], a substantially planar, circular

end surface, ...[*and*] a quality factor of at least about 10^4 . Thus, under 35 U.S.C. § 102(b), Stone does not anticipate each and every element of amended independent claim 5.

Withdrawal of the 35 U.S.C. § 102(b) rejection of independent claim 5 is respectfully requested, as is the allowance of amended independent claim 5.

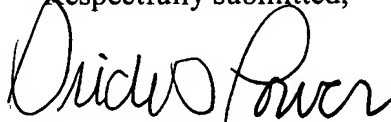
Claim 21

Although the cover sheet to the Office Action of January 5, 2007, indicates that claim 21 has been rejected, no grounds for rejecting claim 21 are set forth in the Office Action. Claim 21 is, therefore, presumed to be directed to allowable subject matter.

CONCLUSION

It is respectfully submitted that each of claims 5, 6, and 9-28 is allowable. An early notice of the allowability of each of these claims is respectfully solicited, as is an indication that the above-referenced application has been passed for issuance. If any issues preventing allowance of the above-referenced application remain which might be resolved by way of a telephone conference, the Office is kindly invited to contact the undersigned attorney.

Respectfully submitted,



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